

such container is not larger than a $\frac{7}{10}$ bushel carton.

(iii) Such grapefruit grown in the production area grade at least U.S. No. 1, and such oranges grown in the production area grade at least U.S. Combination (with not less than 60 percent, by count, of the oranges in any lot grading at least U.S. No.1).

(d) The committee or its duly authorized agents, shall approve or deny each handler's request to handle fruit under paragraphs (c)(1) and (c)(3) of this section and promptly notify such handler in writing of its decision: *Provided*, That if it approves a handler's request, it shall issue a certificate of privilege as provided in §906.44, but if it denies a request it shall advise the handler why the application was denied. The committee may rescind a certificate of privilege issued to a handler, or deny a certificate of privilege to a handler upon proof satisfactory to the committee that such handler has shipped fruit contrary to the provisions of this part. Such action denying a certificate of privilege shall apply to and not exceed a reasonable period of time as determined by the committee. Any handler who has had a certificate of privilege rescinded or denied may file a written appeal with the committee for reconsideration.

(e) *Terms*. The term *bushel* means a unit of measure equivalent to 2,150.42 cubic inches; the term *level full* means that the fruit is level with the top edge of the bottom section of the carton; the term *six-pack* means any container with a capacity of one-fourth of a bushel, the term *basket* means any container made of interwoven material; the term *closed* means closed in accordance with good commercial practices; and terms relating to grade mean the same as in the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) (7 CFR 51.620 through 51.653), or in the U.S. Standards for Grades of Oranges (Texas and States other than

Florida, California, and Arizona) (7 CFR 51.680 through 51.714).

[25 FR 9757, Oct. 12, 1960. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 39 FR 44736, Dec. 27, 1974; 40 FR 3286, Jan. 21, 1975; 44 FR 75103, Dec. 19, 1979; 48 FR 50502, Nov. 2, 1983; 49 FR 3173, Jan. 26, 1984; 54 FR 18095, Apr. 27, 1989; 59 FR 50826, Oct. 6, 1994; 59 FR 63693, Dec. 9, 1994; 60 FR 13892, Mar. 15, 1995]

§ 906.121 Reestablishment of districts.

The three districts of the production area specified in §906.20 *Districts* are reestablished as a single district comprising the entire production area.

[34 FR 6651, Apr. 18, 1969]

§ 906.122 [Reserved]

§ 906.123 Fruit for processing.

(a) No person shall be granted exemption from regulation to handle oranges and grapefruit for processing unless such fruit is shipped to an approved processor. All such shipments to an approved processor shall be reported to the committee on a form approved by it.

(b) *Approved processor*. Any person who desires to acquire, as an approved processor, fruit for processing, as set forth in §906.120(b), shall, prior thereto, file an application with the committee on a form approved by it, which shall contain, but not be limited to, the following information:

- (1) Name and address of applicant;
- (2) Location of plant or plants where manufacturing is to take place;
- (3) Approximate quantity of fruit used each month;
- (4) A statement that the fruit obtained exempt from fresh fruit regulations will not be resold or transferred for resale, directly or indirectly, but will be used only for processing;
- (5) A statement agreeing to hold a license issued under the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499r), and regulations issued thereunder (7 CFR part 46) when buying Texas oranges and grapefruit for processing;
- (6) A statement agreeing to undergo random inspection by the committee;
- (7) A statement that the requesting processor has no facilities, equipment, or outlet to repack or sell fruit in fresh form;

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(8) A statement agreeing to submit such reports as are required by the committee.

Such application shall be investigated by the committee staff. After such investigation, the staff shall report its findings to the committee at its next meeting or to its delegated subcommittee. Based upon the staff's report and other reliable information, the committee or delegated subcommittee shall approve or disapprove the application and notify the applicant accordingly. If the application is approved, the applicant's name shall be placed upon the list of approved processors.

(c) *Certificate by processors.* Upon request by the committee each approved processor shall submit to the committee on or before the 10th day of each month a report of the oranges and grapefruit used during the preceding calendar month. Each report shall contain a certificate to the United States Department of Agriculture and to the committee as to the truthfulness of the information shown therein.

(d) *Diversion report.* Each handler who ships fruit to processors for processing shall report to the committee on a form approved by it the following information:

(1) Name and address of the processor's place of business where the fruit was shipped;

(2) The net weight of oranges or grapefruit;

(3) Truck license number or rail car initial and number;

(4) Inspection certificate number; and

(5) Such other information as the committee may require.

The handler shall prepare 4 copies of the report and sign them. The original copy shall be submitted to the committee within 7 days. One copy shall be retained by the handler. One copy shall be given to the party transporting the fruit who, upon arrival at the processor's place of business, shall turn it over to the party receiving the fruit with the understanding that the processor will record thereon the actual net weight of the fruit received and forward such copy to the committee of-

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fice. One copy shall be submitted to the processor along with the invoice.

[39 FR 44736, Dec. 27, 1974, as amended at 54 FR 18095, Apr. 27, 1989]

§ 906.137 Handlers use of identifying marks utilized by the committee in promotional and advertising projects.

(a) Pursuant to § 906.37, the identifying marks "Texasweet", "Sweeter By Nature", "Texas Fancy", and "Texas Choice" shall be available to handlers only under the following terms and conditions:

(1) The identifying marks "Texasweet" and "Sweeter by Nature" may severally or jointly be affixed only to containers of grapefruit or to individual grapefruit comprising a lot which grades at least U.S. No. 1.

(2) The identifying mark "Texas Fancy" may be affixed only to containers of grapefruit or to individual grapefruit comprising a lot which grades at least U.S. No. 1 with no more than 40 percent of the surface of the grapefruit, in the aggregate, affected by discoloration.

(3) The identifying mark "Texas Choice" may be affixed only to containers of grapefruit or to individual grapefruit comprising a lot which grades at least U.S. No. 2, with no more than 60 percent of the surface of the grapefruit, in the aggregate, affected by discoloration.

(4) The identifying marks "Texasweet" and "Sweeter by Nature" may severally or jointly be affixed only to containers of oranges or to individual oranges comprising a lot which grades at least U.S. Combination, with not less than 60 percent, by count, of the oranges in each container thereof grading at least U.S. No. 1 and the remainder U.S. No. 2.

(5) The identifying mark "Texas Choice" may be affixed only to containers of oranges or to individual oranges comprising a lot which grades at least U.S. No. 2, except that in determining whether the fruit is reasonably well colored the yellow or orange color must predominate over the green color on at least 75 percent of the fruit surface in the aggregate which is not discolored.